UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8, MONTANA OFFICE
FEDERAL BUILDING, 10 West 15th Street, Suite 3200
HELENA, MONTANA 59626

LT5-008

Ref: 8MO

JUN 2 2005

June 3, 2005

Bonneville Power Administration
Communications–DM-7
P.O. Box 14428
Portland, Oregon 97293-4428

Re: EPA Scoping Comments for EIS to Rebuild the Libby to Troy Section of BPA's Libby to Bonners Ferry 115-Kilovolt Transmission Line

Dear BPA:

The Environmental Protection Agency, Region VIII, Montana Office (EPA) has reviewed the Notice of Intent to prepare an Environmental Impact Statement (EIS) for the proposed Rebuild of the Libby to Troy Section of BPAs Libby to Bonners Ferry 115-Kilovolt Transmission Line. The EPA reviews EISs in accordance with its responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. Section 309 of the Clean Air Act directs EPA to review and comment in writing on the environmental impacts of any major Federal agency action. EPA's comments on the draft EIS will include a rating of both the environmental impact of the proposed action and the adequacy of the NEPA document.

At this early stage in this project we would like to provide scoping comments to assist in EIS preparation and help identify issues and concerns that should be addressed in the EIS (see scoping comments enclosed). It is EPA's goal that the EIS fulfill the basic intent of NEPA to provide full public disclosure of all foreseeable direct, indirect, and cumulative environmental impacts of the proposed project, and encompass to the maximum extent possible the environmental and public involvement requirements of State and Federal laws, Executive Orders, and policies (e.g., Clean Air Act, Clean Water Act, Endangered Species Act, E.O.11990-Protection of Wetlands, etc,). Our experience has shown that when environmental concerns are thoroughly evaluated, the EIS is a more meaningful document, and better decisions result. We sincerely hope that the enclosed scoping comments will be beneficial to you.

Please call Mr. Steve Potts of my staff in Helena, Montana at (406) 457-5022 or in Missoula, Montana at 406-329-3313 if you have any questions regarding these comments. Thank you for the opportunity to comment.

Sincerely,

John F. Wardell,
Director
Montana Office

Enclosures

cc: Larry Svoboda/Julia Johnson, 8EPA-N, Denver

ENCLOSURE

EPA SCOPING COMMENTS FOR EIS TO REBUILD THE LIBBY TO TROY SECTION ON BONNEVILLE POWER ADMINISTRATION'S LIBBY TO BONNERS FERRY 115 KILOVOLT TRANSMISSION LINE

The Bonneville Power Administration (BPA) EIS for the rebuild of the Libby to Troy transmission line should provide for full public disclosure of all foreseeable direct, indirect, and cumulative environmental impacts associated with the rebuild of the 17 mile transmission line. EPA's scoping comments identify and discuss issues/concerns that should be considered during EIS preparation. Although each project analysis has its own unique scope, affected environment, past and proposed impacts, and will require its own level of analysis, and may require consideration above and beyond what we are presenting here.

Clear, in-depth analysis of all relevant issues is a requirement in the preparation of an EIS. Readability, a logical presentation of information, consistency between sections of the plan and clarity are important to the reader. Our primary objective is that the overall thought process, analysis process and disclosure of effects in documents supporting the Record of Decision are clear, logical and comprehensive. EPA appreciates the effort and resources that are committed to the preparation of documents of this nature and hopes to facilitate the process with these comments.

When issued, EPA will review this EIS in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and the Clean Air Act. Section 309 of the Clean Air Act requires the EPA to review all draft and final Environmental Impact Statement (EIS) documents, develop formal Agency comments and publish them for public review. The EPA publishes in the Federal Register, a dual rating of the DEIS based on the preferred alternative identified in the document. The rating summarizes EPA's evaluation of: 1) the environmental impacts of the proposal, and 2) the adequacy of the draft EIS (See summary explanation of EPA's rating system for EIS's attached). With this broad charge, EPA is not limited in its comments to only the spectrum of laws and regulations for which it has a primary regulatory role. Comments on any aspect of the EIS and supporting documents are appropriate. Ordinarily, the most substantive EPA comments continue to be in areas where it has a specific regulatory mission.

1. Purpose and Need

The EIS should specify the underlying purpose and need for the proposed transmission line rebuild, including discussion of the planning process, power needs, power markets, customer bases, power transmission technologies, cost-effectiveness, financing, energy conservation, and any other power transmission issues that may be appropriate.

There should be an adequate explanation of the rationale for the establishment of the analysis area boundary. The analysis area should include the environment potentially affected by implementation of the project alternatives and should be a logical unit for projecting and measuring effects. Some documents we review have neither a clear and logical Purpose and Need statement, nor adequate explanation of why the analysis area boundary was established where it was. Potential impacts to water quality, fisheries, river and stream bank stability, wetlands, wildlife, biodiversity, air quality, cultural resources, social and economic effects, and connectivity to other projects may extend beyond such boundaries. An appropriate analysis area should encompass the potentially affected environment, and should be able to function as appropriate unit of analysis for projecting anticipated impacts and for measuring actual effects.

2. Alternatives

The EIS should support the purpose and need with a range of alternatives that will meet the goals and objectives of the purpose and need and that address issues of concern. In accordance with NEPA (40 CFR 1502.14) the EIS should:

a. Rigorously explore and objectively evaluate all reasonable alternatives.
b. Include reasonable alternatives not within the jurisdiction of the lead agency.
c. Include a no action alternative.
d. Identify the agency's preferred alternative(s).
e. Include appropriate mitigation measures not already included in the proposed action or alternatives.
f. Include appropriate mitigation measures.

All issues raised during scoping should be identified in the EIS. Issues considered as significant should be clearly stated along with a statement of how they will be addressed in the document. Those issues considered not significant to the decision to be made should be identified along with a statement of how they will be addressed in the document or otherwise dismissed.

Alternatives should address project purpose and need and significant issues, and mitigate adverse impacts of the proposed power line. It is important that reasonable alternatives to the proposed project are rigorously explored and objectively evaluated as required by the NEPA implementing regulations (see 40 CFR 1502.14(a)). The EIS process should identify and assess alternatives that will avoid or minimize adverse effects and demonstrate that all practicable means have been taken to avoid and minimize potential effects (see 40 CFR 1500.2 (e) and (f)).

The CEQ states in their *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations* (46 Federal Register 18026, March 23, 1981) that "in determining the scope of alternatives to be considered, the emphasis is on what is 'reasonable' rather than on whether the proponent or applicant likes or is itself capable of carrying out a particular alternative. Reasonable alternatives include those that are practical or feasible from

the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant." Also, CEQ guidance states that "an alternative that is outside the legal jurisdiction of the lead agency must still be analyzed in the EIS if it is reasonable."

We encourage the BPA to develop and evaluate alternatives that avoid as much as possible streams, riparian areas and wetlands and other environmentally sensitive areas, and that avoid fragmentation of wildlife habitat. Use of the existing right-of-way corridor is generally preferred to avoid disturbance to previously undisturbed areas, although potential re-routings to reduce impacts to environmentally sensitive areas may need to be considered Disturbance to soils and vegetation during construction, and impacts to rivers, streams, water quality, fish, wildlife and scenic, recreation, or cultural resources should be avoided and/or minimized as much as possible. Burial of the transmission lines should be considered in areas with scenic values to reduce visual impacts. We note that transmission line burial may also avoid powerline failures due to snow and ice build during winter, although it is acknowledged that transmission line burial could result in additional impacts to soils and vegetation as well as increased construction costs.

We recommend that tables, maps, figures, charts, photos, etc., be used as much as possible and wherever appropriate to present and display specific features of alternatives so that features of the different alternatives can be clearly understood, and then evaluated in a comparative manner. We highly recommend that an alternatives matrix table that summarizes major features and significant environmental impacts of alternatives be provided to facilitate understanding of the alternatives, particularly distinctions between alternatives, and provide comparative evaluation of alternatives in a manner that sharply defines issues for the decision maker and the public to make in regard to a reasoned choice among alternatives.

Mitigation

A comprehensive discussion of proposed mitigation for direct, indirect and cumulative impacts is required by the CEQ Regulations for Implementing the Procedural Provisions of NEPA. The CEQ regulations state that an EIS should include the means to mitigate adverse environmental effects and disclose the effectiveness of mitigation measures in minimizing adverse effects (40 CFR 1508.7). Simply listing the mitigation measures is insufficient to qualify as the reasoned discussion and "hard look" required by NEPA. Mitigation measures must be discussed in sufficient detail to ensure that potential detrimental environmental effects and measures to mitigate those effects have been fairly evaluated. The potential effectiveness of alternatives and mitigation measures in addressing the project purpose and need and significant issues should also be addressed. Monitoring plans are also needed for measuring the effectiveness of the mitigation measures (quantitatively-if possible, and/or a qualitatively), and determining the need for modifying mitigation. The EIS should also address coordination efforts and funding or budget needs required to undertake or implement monitoring and mitigation measures.

3. Affected Environment/Existing Condition

The EIS should succinctly describe the existing conditions using appropriate scales within the analysis area (e.g., watershed analysis where applicable). The EIS should identify and discuss:

* Existing power line right-of-way, power needs, customer bases, power markets, power transmission technologies, energy conservation, cost-effectiveness, financing, and any other appropriate power transmission issues.

* Environmental conditions along alternative transmission line routes should be described (i.e., characterize aquatic, biological and other environmental resources which have a potentially greater importance or sensitivity to impacts). Resources where existing knowledge of the resource or its sensitivity is currently lacking should be identified, and efforts should be made to collect needed information (e.g., conduct field surveys), and/or explain why such information is unavailable and cannot be obtained.

Baseline resources information should characterize the biological and physical environment sufficient to determine adequacy of data and information for evaluating potential environmental impacts. This is needed to support transmission line construction and operation recommendations relative to resource protection, disclosure of mitigation measures, cumulative impact analysis, and to provide a reference for subsequent monitoring.

4. Environmental Consequences

The EIS should analyze and disclose the environmental impacts of the transmission line construction and operation alternatives. From a NEPA perspective, the EIS should be representative of and assess the impacts of transmission line construction an operation. The disclosure of environmental consequences of the analyzed alternatives should include the effect of implementing the alternative on the physical, chemical and biological resources such as air and water quality, biologic components or ecosystems, and the likelihood of success of the proposed mitigation measures. The discussion should include analysis of impacts within the analysis area resulting from activities on all land ownerships.

We believe the environmental consequences section should include evaluations of potential impacts on water quality, fisheries, river/stream hydrology, wetlands, ground water aquifers, vegetation, wildlife, biodiversity, air quality, cultural resources, social and economic effects, and connectivity to other projects. It should also discuss unavoidable adverse environmental effects, short-term and long-term environmental considerations, and any irreversible or irretrievable commitments of resources which would be involved with the alternatives should they be implemented. This section should address (40 CFR 1502.16):

a. Direct effects and their significance.

b. Indirect effects and their significance.
c. Possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned.
d. The environmental effects of alternatives including the proposed action.
e. Energy requirements and conservation potential of various alternatives and mitigation measures.
f. Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures.
g. Urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures.
h. Means to mitigate adverse environmental impacts.

It is important that environmental analysis conducted during the NEPA EIS process is integrated with other planning and environmental review procedures (e.g., permitting requirements) so that all such procedures run concurrently rather than consecutively.

Statements made in the assessment should be substantiated either by data and analysis included in the document, or by reference to readily available supporting documents. When referencing documents or data not included in the NEPA document, information should be included to ensure the reader understands the quality and type of analysis actually completed. Environmental analysis documents should reflect the level of analysis and data compilation actually completed. Unless clearly documented, the reviewer may be unable to establish whether data exists to support conclusions within the analysis. Public access to supporting documents is also important.

Transmission line construction activities should avoid or minimize impacts to streams and wetlands. Wetland impacts should be avoided and minimized, to the maximum extent practicable, and then unavoidable wetland impacts should be compensated for through wetland restoration, creation, or enhancement. If transmission line construction may involve deposition of dredged or fill material in waters of the United States, including wetlands, the U.S. Army Corps of Engineers should be contacted in regard to the need to obtain a 404 permit. Discharges of fill material into wetlands and other waters of the United States are regulated by Section 404 of the Clean Water Act, 33 U.S.C. 1344, which is administered jointly by the Corps of Engineers and EPA. It is important for the BPA to ensure consultation with the Corps of Engineers to determine applicability of 404 permit requirements to specific project level construction activities in or near streams or wetlands, (e.g., contact Mr. Allan Steinle of Corps of Engineers Montana Office in Helena at 406-441-1375).

The 404(b)(1) Guidelines (found at 40 CFR Part 230) and Corps of Engineers, EPA, and USFWS Wetland Specialists should be consulted to provide specific environmental criteria and guidance when BIA projects need a 404 permit. We should also note that if a 404 permit(s) is

eventually required to implement the proposed project there would be a need to appropriate water quality standards certification from the Montana DEQ in accordance with Section 401 of the Clean Water Act.

It will be important to reduce and control construction runoff, sedimentation and pollutant loading, as well as address other potential impacts to water quality, wetlands and riparian areas. Power line construction, operation, and maintenance can impact streams, wetlands and riparian areas from runoff, disruption of drainage patterns, stockpiling of materials in staging areas, maintenance of construction and maintenance. A Storm Water Pollution Prevention Plan (SWPPP), requiring identification of BMPs to control erosion and stormwater runoff, and a provision that no unnecessary operation of equipment occur within the channels of creeks and rivers, may be needed during project construction. The State contact for construction storm water permitting activities is Brian Heckenberger of the Montana DEQ at 406-444-5310.

Special attention should be made regarding the state's identification of water bodies with impaired uses in its Clean Water Act Section 303(d) report, as well as the magnitude and sources of such impairment. The EIS should identify the specific parameters resulting in a 303(d) listing and how the proposed project might affect these parameters (e.g., temperature, sediment, phosphorus, riparian habitat). Most importantly, the EIS should demonstrate that construction and operation of the transmission line will not result in further degradation of 303(d) listed waters. Information regarding waters with impaired uses on Montana's 303(d) list can be found at the Montana DEQ website, http://www.deq.state.mt.us/wqinfo/303_d/303d_information.asp .

We note that Libby is designated as an air quality non-attainment area for PM_{10} (see map at http://www.deq.state.mt.us/AirQuality/Planning/airmaps/LibbyMap.pdf). In addition, EPA designated the Libby area as non-attainment for $PM_{2.5}$ in November 2004. We encourage the BPA to contact the Montana DEQ to inquire if air quality permits may be needed during construction (contact Dave Vidrine at 406-444-2467 and/or see website http://www.deq.state.mt.us/AirQuality/AQinfo.asp).

The EIS should evaluate impacts to wildlife and wildlife habitat from transmission line construction and operation. Affected environment sections should include current quality and capacity of habitat, usage by wildlife near the proposed project, and known wildlife corridors/trails that may be affected. There may be particular concerns regarding power line impacts upon avian species. Standards for transmission line support structures should conform to Practices for Raptor Protection on Power Lines. Monitoring may need to be considered to determine if bird strikes or electrocutions of birds occur as a result of this project. Field surveys are recommended to locate birds which have been electrocuted or have struck transmission lines to aid in identifying and modifying problem structures. We note that shield wires are often struck by birds in flight and efforts should be made to include design and mitigation measures to reduce potential impacts to birds.

If the proposed transmission line construction or operation could affect threatened or endangered species (e.g., white sturgeon, bald eagle, grizzly bear, bull trout, etc,), the EIS should include the Biological Assessment and the associated U.S. Fish and Wildlife Service (FWS) Biological Opinion or formal concurrence for the following reasons:

(1) NEPA requires public involvement and full disclosure of all issues upon which a decision is to be made;
(2) The Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA strongly encourage the integration of NEPA requirements with other environmental review and consultation requirements so that all such procedures run concurrently rather than consecutively (40 CFR 1500.2(c) and 1502.25); and
(3) The Endangered Species Act (ESA) consultation process can result in the identification of reasonable and prudent alternatives to preclude jeopardy, and mandated reasonable and prudent measures to reduce incidental take. These can affect project implementation.

Since the Biological Assessment and EIS must evaluate the potential impacts on listed species, they can jointly assist in analyzing the effectiveness of alternatives and mitigation measures. EPA recommends that the final EIS and Record of Decision not be completed prior to the completion of ESA consultation. If the consultation process is treated as a separate process, the Agencies risk USFWS identification of additional significant impacts, new mitigation measures, or changes to the preferred alternative. If these changes have not been evaluated in the final EIS, a supplement to the EIS would be warranted.

Management and control of noxious weeds and invasive plant species along the transmission line right-of-way corridor should be included in project alternatives. We recommend annual field reviews to evaluate effectiveness of treatment or control measures for noxious weeds and/or invasive plants. Construction areas should be revegetated with native weed free vegetation, and vegetative success should be monitored as part of the right-of-way maintenance provisions following construction. Long-term benefits of this mitigation activity go beyond stormwater and soil protection to include development of habitat for wildlife, improved aesthetics, and decreased erosion.

The EIS should also discuss the social and economic consequences of proposed power line construction, including effects on the local economy, job additions and losses, tax base and funding, public uses and recreation, local development, etc.,. The effects of the proposed facility and alternatives on the community facilities, programs, systems, and infrastructure of towns of Libby and Troy should be assessed and disclosed.

Will there be concerns regarding public health or environmental effects from electromagnetic fields (EMF) generated by the transmission line? Potential EMF buffer needs for the transmission line should be considered if the transmission line would be located near

residences or other public facilities.

The EIS should identify cultural resources that may be affected by power line construction and operation. Knowledge of the presence or absence of significant cultural resources along the transmission line routes may be important for a reasoned choice among alternatives.

Cumulative Effects

NEPA requires that cumulative impacts be addressed as a summary of the individual impacts of the proposed action and all other past, present, and "reasonably foreseeable" future actions, including evaluation of direct and indirect effects of these projects on all resource categories, including water quality, aquatic habitat, fisheries, wetlands, air quality, vegetation, and wildlife habitat. This includes analysis and disclosure of activities on private adjacent land irrespective of what agency/entity has decision-making authority or analysis responsibility.

In January 1997 the President's Council on Environmental Quality (CEQ) published, "*Considering Cumulative Effects Under the National Environmental Policy Act*", guidance that provides a framework for analyzing cumulative effects. In May 1997 EPA published a document entitled, "*Consideration of Cumulative Effects in EPA Review of NEPA Documents.*" This document can be found at http://www.epa.gov/compliance/resources/policies/nepa/index.html (Click on cumulative effects document title). EPA considers five key areas of information in reviewing cumulative effects analyses:

1. Clear identification of resources being cumulatively impacted and the geographic area where impacts occur.
2. Use of appropriate analysis area boundaries for the resource and time period over which the cumulative effects have occurred or will occur.
3. Identify impacts that are expected to resources of concern in each area from the proposed management direction through analysis of cause-and-effects relationships (include scientifically defensible threshold levels).
4. Adequate evaluation of all past, present, and reasonable foreseeable future actions that have affected, are affecting, or would affect resources of concern (include adequate evaluation vs. benchmark or baseline or reference conditions).
5. Disclosure of the overall cumulative impacts that can be expected if the individual impacts are allowed to accumulate, and provide comparisons of cumulative impacts for the proposed management direction and the reasonable alternatives in relation to the no action alternative and/or an environmental reference point.

U.S. Environmental Protection Agency Rating System for Draft Environmental Impact Statements

Definitions and Follow-Up Action*

Environmental Impact of the Action

LO - - Lack of Objections: The Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC - - Environmental Concerns: The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

EO - - Environmental Objections: The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU - - Environmentally Unsatisfactory: The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1 - - Adequate: EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2 - - Insufficient Information: The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

Category 3 - - Inadequate: EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987.